IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN FREMPONG-ATUAHENE, et al.	:	CIVIL ACTION
v.	:	
REDEVELOPMENT AUTHORITY OF THE CITY OF PHILADELPHIA, et al.	:	NO. 99-0704

MEMORANDUM AND ORDER

HUTTON, J. January 12, 2000

Presently before the Court are Defendants the Redevelopment Authority of the City of Philadelphia ("RDA") and its employees' Motion to Dismiss (Docket No. 2), Defendants the Department of Licenses and Inspection of the City of Philadelphia ("L&I"), Robert Solvibile ("Solvibile"), and "John and Janes Does'" Motion to Dismiss (Docket No. 5), and Plaintiff Stephen Frempong-Atuahene's ("Plaintiff") Proposed Amended Complaint and Supplemental Pleading (Docket No. 6). For the reasons stated below, defendants' Motions are GRANTED and Plaintiff's Proposed Amended Complaint and Supplemental Pleading are **DISMISSED** with prejudice.

I. DISCUSSION

On February 11, 1999, Plaintiff, a pro se litigant,[1] filed

[1] While Plaintiff is proceeding pro se, he is a frequent litigant in the Eastern District of Pennsylvania and before the courts of the Commonwealth of Pennsylvania. For example, Plaintiff initiated the following lawsuits in the Eastern District of Pennsylvania: 98-285; 98-865; 98-930; 98-1359; 98-1729; 97-659; 97-660; 97-662; 97-4520; 97-5459; 96-1248; 90-5947. He also initiated many other lawsuits in the Commonwealth's courts. While the Court is mindful that it must be comparatively lenient when considering a pro se litigant's filings, see Haines v. Kerner, 404 U.S.

the instant lawsuit (Docket No. 1) against the RDA, the City of Philadelphia (the "City), L&I, Solvibile, individually and as an officer of L&I, Richard Bazelon ("Bazelon")of RDA, Noel Eisenstat ("Eisenstat"), individually and as an officer of RDA, John Petro, individually and as an officer of RDA, and John and Jane Does, employees of the City and L&I (collectively, the "Defendants"). Plaintiff's Complaint stated twenty-two causes of action under federal and Pennsylvania law.

Defendants RDA and its employees' filed a Motion to Dismiss on July 1, 1999. On July 7, 1999, Plaintiff motioned the court for an enlargement of time to respond to RDA's Motion. The Court granted Plaintiff's Motion, allowing him until August 3, 1999 to file a response. Defendants L&I, Solvibile, and "John and Janes Does" filed a Motion to Dismiss on or about August 17, 1999. Plaintiff filed a Proposed Amended Complaint and Supplemental Pleading on September 3, 1999.

Without reviewing the merits of Plaintiff's Complaint, the Court notes that Plaintiff failed to file a response to RDA and its employees' Motion to Dismiss, which was filed on July 1, 1999. While Plaintiff asked for an enlargement of time to respond to the dismissal motion of RDA and its employees, it never filed said response. Similarly, Plaintiff never responded to the dismissal

519, 520, 92 S.Ct. 594, 30 (1972) (stating that pro se plaintiff's complaints should be construed liberally), the Court tempers this call for leniency with by inferring that because Plaintiff has litigated frequently before the Court, he has a sufficient knowledge of the Federal Rules of Civil Procedure.

motion of Defendants L&I, Solvibile, and "John and Janes Does," which they filed on or about August 17, 1999.

Local Rule of Civil procedure 7.1(c) states in pertinent part that "[i]n the absence of a timely response, [a] motion may be granted as uncontested except that a summary judgment motion . . . will be governed by Fed. R. Civ. P. 56(c)." E.D. Pa. R. Civ. P. 7.1(c). Therefore, defendants RDA and its employees' Motion to Dismiss is granted as unopposed as is the Motion to Dismiss of defendants L&I, Solvibile, and "John and Janes Does."

Now the Court considers Plaintiff's Proposed Amended Complaint and Supplemental Pleadings which he filed on September 3, 1999. As previously noted, Plaintiff is a frequent litigant in the courts of the Eastern District of Pennsylvania and the Commonwealth of Pennsylvania.\[2] Due to this frequency, the Court infers that Plaintiff has at least a rudimentary knowledge of the Federal Rules of Civil Procedure.

Rule 15(a) of the Federal Rules of Civil Procedure provides that "[a] party may amend the party's pleading once as a matter of

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[2]/ The frequency with which Plaintiff is a litigant is not only evidenced by the number of suits he initiated in recent years but by the form of his pleadings in the instant action. Upon inspection of Plaintiff's instant filings, the Court infers that Plaintiff is so consumed with filing successive and duplicative lawsuits that he lacks the time to sufficiently change his pleadings and motions to conform with his "new" causes of action. For example, Plaintiff's Complaint in this action was once a "Revised Amended Complaint" in another one of his suits. This is evidenced by the fact that "Revised Amended" is scribbled-out on page 3 of the instant Complaint and that each of his causes of action incorporates "paragraphs . . . through . . . of the Amended Complaint." (See Compl. at ¶¶ 30, 36, 40, 44, 54, 62, 69, 74, 79, 89, 94, 100, , 106, 112, 116, 121, 128, 137, 143, 149, 154, and 158 (emphasis added)). Additionally, Plaintiff's Complaint does not contain an original signature of Plaintiff or his counsel, Jerome Lacheen. That his Complaint contains the signature of counsel is puzzling at it appears that Plaintiff is actually proceeding pro se.

course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). If a plaintiff seeks to amend [his or her] complaint after the defendant served [a] responsive pleading, the plaintiff "may amend [said complaint] only by leave of court." Id. Rule 15(a) clearly states that, "leave shall be freely given when justice so requires." Id. "Among the grounds that could justify a denial of leave to amend are undue delay, bad faith, dilatory motive, prejudice, and futility." In re Burlington Coat Factory Sec. Litig., 114 F.3d 1410, 1434 (3d Cir. 1997) (citations omitted); see also Lorenz v. CSX Corp., 1 F.3d 1406, 1413 (3d Cir. 1993). The Third Circuit has found that "prejudice to the non-moving party is the touchstone for denial of an amendment." Lorenz, 1 F.3d at 1414.

Defendants filed responsive pleadings to Plaintiff's Complaint (i.e., motions to dismiss). Therefore, under Rule 15, Plaintiff was compelled to receive either leave of Court or the consent of his adversaries before filing an amended complaint. Plaintiff did neither.\[3] As such, Plaintiff did not comply with the express language of Rule 15. Although, Plaintiff offers no explanation for his failure to file a Motion for Leave to Amend or for his failure to seek the consent of his adversaries, his filing may survive if it will not prejudice Defendants.

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[3]/ The Court notes that a letter authored by Plaintiff and dated August 20, 1999, indicates that Plaintiff filed a Motion to Amend. Neither the Court not the Clerk of Court of the United States District Court for the Eastern District of Pennsylvania, has a record of such Motion, however.

Of course, as Plaintiff's case has been dismissed with regard to each defendant named in his original Complaint, an inquiry into whether those defendants will be prejudiced is moot.\[4] However, the Court considers Plaintiff's Proposed Amended Complaint and Supplemental Pleadings to the extent that said Proposed Amended Complaint names new defendants (i.e., the Philadelphia Housing Authority, Mr. Ingerman and the Ingerman Group, Blaine Stoddard of the Partnership CDC in West Philadelphia, Betty Revis of the Walnut Hill Community Association, Chatham Court Associates, John, Joe, and Jane Does of the Ingerman Group, Partnership CDC in West Philadelphia, Chatham Court Associates, and Philadelphia Housing Authority (collectively, the "Proposed Additional Defendants")).

To the extent that Plaintiff names the Proposed Additional Defendants as defendants in his Proposed Amended Complaint and Supplemental Pleadings, the Court refuses to recognize said individuals and entities as defendants in the instant lawsuit. It appears that Plaintiff attempts to employ a strategy of delay and harassment by naming these individuals and entities as defendants. That is, Plaintiff, upon realizing that the defendants he named in his original Complaint successfully motioned for dismissal of every

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[4]/ Assuming arguendo that the Court did not already grant the instant motions to dismiss, the Court finds that defendants RDA and its employees, L&I, Solvibile, and John and Jane Does would be unfairly prejudiced if the Court were to ignore their motions to dismiss and consider Plaintiff's untimely Amended Complaint and Supplemental Pleadings. The Court finds that Plaintiff has engaged in dilatory delay tactics that evidence his intent to harass Defendants. Plaintiff had ample opportunity to respond to the instant motions to dismiss. Indeed, although the Court granted his request for an enlargement of time to respond to one of the instant motions, Plaintiff ultimately failed to file a response.

cause of action brought against them, cannot simultaneously revive his case by naming new defendants. The Court therefore refuses to indulge Plaintiff's attempt to monopolize this Court's limited resources with procedurally deficient and otherwise sliphsod filings.

It is of course true that "[a]ccess to the courts is a fundamental tenet of our judicial system; legitimate claims should receive a full and fair hearing no matter how litigious the plaintiff may be." In re Oliver, 682 F.2d 443, 446 (3d. Cir. 1982). Moreover, courts traditionally have shown pro se litigants a leniency not extended to those with legal representation. In re McDonald, 489 U.S. 180, 184, 109 S. Ct. 993, 996 (1989); Haines v. Kerner, 404 U.S. 519, 520, 92 S. Ct. 594, 596 (1972), reh'g denied 405 U.S. 948 (1972). This leniency does not, however, grant pro se litigants a license to abuse with impunity the judicial process. Wexler v. Citibank, No. CIV.A. 94-4172, 1994 WL 580191, at *6, (E.D. Pa. Oct. 21, 1994). Accordingly, in an effort to prevent the legal process and defendants from being further impugned by Plaintiff, defendants' motions to dismiss are granted and the court dismisses with prejudice Plaintiff's Proposed Amended Complaint and Supplemental Pleading.

An appropriate Order follows.

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v.	:	
	:	
REDEVELOPMENT AUTHORITY OF THE	:	
CITY OF PHILADELPHIA, et al.	:	NO. 99-0704

O R D E R

AND NOW, this 12th day of January, 2000, upon consideration of Defendants the Redevelopment Authority of the City of Philadelphia ("RDA") and its employees' Motion to Dismiss (Docket No. 2), Defendants the Department of Licenses and Inspection of the City of Philadelphia ("L&I"), Robert Solvibile ("Solvibile"), and "John and Janes Does'" Motion to Dismiss (Docket No. 5), and Plaintiff Stephen Frempong-Atuahene's ("Plaintiff" or "Frempong") Proposed Amended Complaint and Supplemental Pleading (Docket No. 6), IT IS HEREBY ORDERED that:

(1) Defendants RDA and its employees' Motion to Dismiss (Docket No. 2)is **GRANTED;**

(2) Defendants L&I, Solvibile, and "John and Janes Does'" Motion to Dismiss (Docket No. 5) is **GRANTED;** and

(3) Plaintiff's Proposed Amended Complaint and Supplemental Pleading (Docket No. 6) is **DISMISSED with prejudice.**

BY THE COURT:

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HERBERT J. HUTTON, J.